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IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

No. 405

JOSE V. BACA, et al., *Petitioners*

v.

UNITED STATES OF AMERICA, *Respondent.*

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

THURMAN ARNOLD
EDGAR H. BRENNER
1229 - 19th Street, N. W.
Washington 6, D. C.

LORENZO CHAVEZ
ARTURO G. ORTEGA
MELVIN ROBINS
Sunshine Building
Albuquerque, New Mexico

Of Counsel:

ARNOLD, FORTAS & PORTER
1229 - 19th Street, N. W.
Washington 6, D. C.

CHAVEZ, ORTEGA & ROBINS
Sunshine Building
Albuquerque, New Mexico

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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Petitioners pray that this Court grant rehearing of its Order of November 14, 1960 denying the Petition for Writ of Certiorari and that a Writ of Certiorari issue to review the judgment of the United States Court of Claims in the above entitled case as prayed for in the Petition filed September 9, 1960.

Reasons for granting rehearing and issuing of the Writ

Following the Order of this Court on November 14, 1960 denying the Petition for Certiorari filed herein a Petition was filed for Writ of Certiorari to the United States Court of Claims in another case involving a slightly different factual basis but a similar and closely related legal issue. In that case, *William Ahcaru, et al.* v. *United States*, No. 544, this Court is requested, inter alia, to rule on the extent to which the government by designating more than the usual 8 hours a day as sleeping time may thereby discharge its admitted obligation to compensate federal employees working on a 24 hour tour of duty for waiting time on government property which would otherwise fall within their compensable working hours. The *Ahcaru* opinion and the arguments presented in the Petition to review that decision are a new and further indication of the importance to federal employees of an issue raised in the Petition in *Baca* v. *United States*, No. 405, namely, the propriety of a designation by the government of stand-by time spent at a remote installation as "off-duty time" in order to avoid inclusion of the time in the compensable hours of employment. In *Ahcaru*, it appears, time devoted to an employer was rendered non-compensable by its resignation as "sleeping time". In *Baca*, the same result was achieved by its designation as "off duty time". In both situations the employees could not use the time effectively for their own purposes. Though the *Ahcaru* case presents additional issues, counsel believes that should this Court grant certiorari in the *Ahcaru* case it would be appropriate for it at the same time to review the Court of Claims decision in the *Baca* case. Accordingly, petitioners respectfully move the Court to grant the Petition for a writ of certiorari requested herein.

or in the alternative to withhold ruling in this Petition for Rehearing until it acts on the *Ahearn* Petition.

Respectfully submitted,

THURMAN ARNOLD
EDGAR H. BRENNER
1229 - 19th Street, N. W.
Washington 6, D. C.

LORENZO CHAVEZ
ARTURO G. ORTEGA
MELVIN ROBINS
Sunshine Building
Albuquerque, New Mexico,

of Counsel:

ARNOLD, FORTAS & PORTER
1229 - 19th Street, N. W.
Washington 6, D. C.

CHAVEZ, ORTEGA & ROBINS
Sunshine Building
Albuquerque, New Mexico

November 30, 1960.

Certificate of Counsel

I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the Rules of this Court.

EDGAR H. BRENNER

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Certificate of Service

I, Edgar H. Brenner, a member of the bar of this Court, hereby certify that on this 30th day of November, 1960, I served a copy of the foregoing Petition for Rehearing of Order Denying Petition for Writ of Certiorari to the United States Court of Claims on the Solicitor General, Department of Justice, Washington 25, D. C. by mailing three copies thereof, first class postage prepaid, addressed to J. Lee Rankin, Esquire, Solicitor General of the United States at the address shown above, said service being in accordance with Rule 33(1).

EDGAR H. BRENNER